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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91431; File No. SR-CBOE-2021-018]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 5.34 Relating to its Fat Finger Check in Connection with Multi-Class Spread Orders

March 29, 2021

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 17, 2021, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend Rule 5.34 in connection with its fat finger check in connection with Multi-Class Spread Orders. The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

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Rules of Cboe Exchange, Inc.

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Rule 5.34. Order and Quote Price Protection Mechanisms and Risk Controls

(a)-(b) No change.

(c) *All Orders.*

(1) Limit Order Fat Finger Check. If a User submits a buy (sell) limit order to the System with a price that is more than a buffer amount above (below) the NBO (NBB) for simple orders or the SNBO (SNBB) for complex orders, the System cancels or rejects the order. The Exchange determines a default buffer amount on a class-by-class basis; however, a User may establish a higher or lower amount than the Exchange default for a class.

(A)-(D) No change.

(E) This check does not apply to Multi-Class Spread Orders.

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The text of the proposed rule change is also available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 5.34(c)(1), which governs its fat finger check, to provide that the check will not apply to Multi-Class Spread Orders.⁵

Currently, Rule 5.34 provides for a fat finger check applicable to both simple and complex orders, including those that are routed to PAR. Specifically, Rule 5.34(c)(1) provides that, if a User submits a buy (sell) limit order to the System with a price that is more than a buffer amount above (below) the NBO (NBB) for simple orders or the SNBO (SNBB) for complex orders,⁶ the System cancels or rejects the order. The Exchange determines a default buffer amount on a class-by-class basis; however, a User may establish a higher or lower amount than the Exchange default for a class. Pursuant to Rule 5.34(c)(1)(B) through (D), the check currently does not apply to complex orders prior to the conclusion of the Opening Process, when no NBBO or SNBBO, as applicable, is available, or to bulk messages or Stop-Limit orders. The Exchange proposes to adopt subparagraph

⁵ See Rules 5.6(c) and 5.85(d).

⁶ The SNBBO is the national best bid and offer for a complex strategy calculated using the NBBO for each component of a complex strategy. See Rule 5.33(a).

(c)(1)(E) which adds Multi-Class Spread Orders as additional orders to which the fat finger check does not apply.

Specifically, a Multi-Class Spread Order is an order or quote to buy a stated number of contracts of a Broad-Based Index Option⁷ and to sell an equal number, or an equivalent number, of contracts of a related Broad-Based Index Option. For example, a Multi-Class Spread Order could be composed of a leg to buy 10 contracts in iShares Russell 2000 ETF (“IWM”) options and a leg to sell one contract in Russell 2000 Index (“RUT”) options, as IWM is an exchange-traded fund (“ETF”) that tracks the performance of the RUT Index and is 1/10th the value of the RUT Index. Therefore, a spread order with a 10:1 ratio in IWM and RUT options creates an equivalent number of contracts of related Broad-Based Index Options and constitutes a Multi-Class Spread Order pursuant to the Exchange Rules. Multi-Class Spread Orders may only execute on the Exchange’s trading floor and are therefore routed to PAR for manual handling (and open outcry trading).⁸ Specifically, Rule 5.34 provides that the System’s acceptance and execution of orders, quotes, and bulk messages,

⁷ For the purposes of a Multi-Class Spread Order, a Broad-Based Index Option includes Broad-Based Indexes, ETF and ETNs. See Rule 5.6(c).

⁸ Like any other order submitted for open outcry execution, a Multi-Class Spread Order is systematized and submitted to PAR (and the applicable price protection mechanisms and risk controls are applied upon submission to PAR). Once on a PAR workstation, a Floor Broker or PAR Official, as applicable, may then represent the order to a trading crowd. The trading crowd provides a range of the prices at which they are willing to trade. Specifically, a Multi-Class Spread Order may be represented at a trading station at which one of the applicable classes trades (i.e., a primary trading station). Immediately after (or concurrent with) the announcement of the order at the primary trading station, the representing TPH must contact the Designated Primary Market-Maker (DPM), Lead Market-Maker (LMM) or appropriate Exchange staff at the trading station where the other applicable class trades to announce the order to the other trading crowd. See Rule 5.85(d). The Floor Broker may then execute the Multi-Class Spread Order against quotes provided from the crowd, in accordance with priority principles set forth in Rule 5.85(a).

as applicable, pursuant to the Rules, including Rules 5.31 through 5.33, and orders routed to PAR pursuant to Rule 5.82 are subject to the price protection mechanisms and risk controls (provided in Rule 5.34), as applicable. As such, the price protections and risk mechanisms under Rule 5.34, including the fat finger check, currently apply to Multi-Class Spread Orders upon routing to PAR.

Currently, separate servers (i.e., match engines) in the System have direct access to and are able to process market information for individual classes and orders in those classes. For example, one match engine has direct access to the Exchange's BBO⁹ for RUT options and sends that BBO information to the Options Price Reporting Authority ("OPRA") for consolidation into and dissemination of the NBBO, and also processes incoming orders (including complex orders) in RUT options, while another match engine does the same for IWM options. Each single-class match engine also continuously intakes away market pricing information (i.e. the ABBO)¹⁰ from OPRA applicable to the class that resides on it. As such, the pricing information regarding the NBBO (that is, the BBO and the ABBO) necessary to calculate the SNBBO applicable to a complex order in an individual class essentially "lives" on a particular match engine, thereby allowing that particular match engine to continuously calculate the SNBBO for complex orders in that individual class without delay.

There is also a separate match engine in the System that is specifically dedicated to cross-class orders. This match engine would process, for example, an incoming RUT/IWM

⁹ The term "BBO" means the best bid or offer disseminated on the Exchange. See Rule 1.1.

¹⁰ The term "ABBO" means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (as defined in Rule 5.65) and calculated by the Exchange based on market information the Exchange receives from OPRA. See Rule 1.1.

Multi-Class Spread Order. Unlike the single-class match engines, the pricing information regarding the NBBOs that are necessary to calculate the SNBBOs applicable to Multi-Class Spread Orders do not “live” on the cross-class match engine. That is, the cross-class match engine does not have direct access to the BBOs that reside on the Exchange’s single class match engines, nor does it continuously stream the necessary away market ABBO pricing information from OPRA, for each class that could possibly comprise the legs of a Multi-Class Spread Order.¹¹ The Exchange notes that technical limitations prevent the different, single-class match engines from directly sending the Exchange’s BBO information to the cross-class match engine, or the cross-class match engine from continuously receiving ABBO pricing information from OPRA that may be applicable to the leg markets of a Multi-Class Spread Order given the significant amount of ABBO leg market information from OPRA that would be necessary to apply the fat finger check to all possible leg combinations for Multi-Class Spread Orders.¹² As a result, the cross-class match engine does not receive all of the necessary pricing information regarding the NBBOs from OPRA

¹¹ The only NBBO information that the cross-class match engine streams directly from OPRA is for SPX/SPXW. The match engine dedicated to SPX/SPXW first sends to OPRA the SPX/SPXW BBOs from that match engine, and OPRA then disseminates to the wider market the NBBO pricing information for SPX/SPXW (which are also the BBOs for SPX/SPXW) at which point the cross-class match engine then receives the SPX/SPXW NBBO information from OPRA.

¹² The Exchange notes that the substantial possible combinations of classes that may comprise Multi-Class Spread Orders results in a significant amount of market information that must be funneled into the one match engine dedicated to cross-class orders. The System does not have unlimited capacity and is unable to directly feed all leg market prices that could potentially comprise a Multi-Class Spread Order into the single cross-class match engine without potentially creating a delay in the cross-class match engine’s processing capacity. The Exchange notes that there are currently 32 different classes eligible to comprise the legs of a Multi-Class Spread Order. The Exchange believes it would be an inefficient use of capacity to stream data for all classes into the cross-class match engine, as most of that information would not be used.

for each leg of an incoming Multi-Class Spread Order to generate an SNBBO for that order. Because the cross-class match engine has no NBBOs for the leg markets of an incoming Multi-Class Spread Order at the time it receives the order, it assumes that the NBBOs applicable to the leg markets of an incoming Multi-Class Spread Order are zero. As such, when the cross-class match engine receives a Multi-Class Spread Order, it then attempts to calculate the SNBBO for the legs of a Multi-Class Spread Order pursuant to Rule 5.33(h)(3). Rule 5.33(h)(3) provides that, in relevant part, if there is a zero NBB and zero NBO, the System replaces the zero NBB with a price equal to one minimum increment and replaces the zero NBO with a price equal to two minimum increments. Such a resulting SNBBO is unlikely to represent the actual market for a Multi-Class Spread Order. Therefore, the cross-class match engine is currently unable to determine an SNBBO that accurately reflects leg market prices that comprise Multi-Class Spread Orders. As a result, this match engine regularly rejects Multi-Class Spread Orders that may otherwise be appropriately priced around the current leg market NBBOs.

The Exchange has received feedback from Users that the current application of the fat finger check to Multi-Class Spread Orders (which are floor-only) is too limited.¹³ Indeed, the primary purpose of the fat finger check is to prevent limit orders from executing at potentially erroneous prices upon entry if the limit prices are too far away from the then-current SNBBO. As stated, the System is unable to calculate the SNBBO for the fat finger check in a manner that accurately reflects current leg market prices for Multi-Class Spread

¹³ The Exchange notes that such instances and, consequently, User feedback given to the Exchange regarding the fat finger limitations in connection with their Multi-Class Spread Orders, have occurred as a result of the Exchange's technology migration completed in October 2019.

Orders due to the technical limitations that prevent the cross-class match engine from receiving all possible NBBOs necessary to calculate the SNBBOs applicable to Multi-Class Spread Orders. As a result, the cross-class match engine calculates SNBBOs for the fat finger check applicable an incoming Multi-Class Spread Order under the assumption that the NBBO values for the orders' leg markets are zero. That is, it attempts to substitute the minimum increment spread for each leg market of the Multi-Class Spread Order to calculate an SNBBO for the fat finger check and, therefore, the fat finger check applied may not provide the most accurate reflection of the best prices currently available in those leg markets. As a result, the System may reject Multi-Class Spread Orders for being too far away from the substitute SNBBO, even though such orders may otherwise be legitimately priced around the leg markets at the time those orders were entered.

The Exchange notes that a User's Multi-Class Spread Orders would still be subject to other price protections already in place on the Exchange. Particularly, all Multi-Class Spread Orders are always subject to manual handling, which permits opportunities for brokers to evaluate the prices of orders based on then-existing market conditions and, thus, creates minimal risk of executions at erroneous prices. Additionally, the System applies various price checks for complex orders, such as: a debit/credit reasonability check (which rejects a complex order that is a limit order for a debit (credit) strategy with a net credit (debit) price that exceeds a pre-set buffer or a market order for a credit strategy that would execute at a net debit price that exceeds a pre-set buffer)¹⁴; and a maximum value acceptable price range check (which rejects an order that is a vertical, true butterfly, or box spread and is a limit order with, or a market order that would

¹⁴ See Rule 5.34(b)(3).

execute at, a price that is outside of an acceptable price range, set by the minimum and maximum possible value of the spread, subject to an additional buffer amount).¹⁵ Overall, the Exchange believes the proposed rule change will provide additional execution opportunities for Multi-Class Spread Orders while continuing to provide protection against executions at prices that may be erroneous.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁷ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

¹⁵ See Rule 5.34(b)(5).

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ Id.

In particular, the Exchange believes the proposed rule change to exclude Multi-Class Spread Orders from the fat finger check removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest by providing additional execution opportunities for cross-class orders that may be appropriately priced in connection with current leg market prices. The proposed change is intended to benefit investors, from which the Exchange has received feedback regarding the current limitations of the fat finger check for Multi-Class Spread Orders. The Exchange believes the proposed rule change will permit the System to accept these investors' orders that may be submitted with prices that accurately reflect current leg markets instead of rejecting them because of the fat finger check's substitution of NBBO information to calculate an applicable SNBBO due to technical limitations that prevent the cross-class match engine from receiving the pricing information regarding the NBBOs for the applicable leg markets of an incoming Multi-Class Spread Order, as it cannot directly access and continuously intake the same information through the System. As a result, the Exchange believes the proposed rule change may increase execution opportunities for investors by allowing their floor-based orders an opportunity to be manually represented in open outcry instead of being rejected by the System before even arriving at PAR for manual handling.¹⁹

Moreover, the Exchange believes that the proposed rule change is consistent with the general protection of investors because, pursuant to Rule 5.34(c)(1)(C), the System currently does not apply the fat finger check in instances in which the SNBBO is not available and the System therefore cannot apply an appropriate buffer. Similarly, due to

¹⁹ See supra note 8.

technical limitations, the SNBBO is not available for Multi-Class Spread Orders and while the System uses an available substitute, this may not accurately reflect current leg market prices. Therefore, the proposed rule change excludes such orders from the fat finger for essentially the same reasons as Rule 5.34(c)(1)(C) — that the SNBBO may not be available in order to provide the System with an accurate measure to which it may apply an appropriate fat finger buffer. Additionally, other price protections and safeguards, such as real-time broker evaluation of floor-based pricing and other System-applied price checks, will continue to apply to Multi-Class Spread Orders, and thereby will continue to provide protection against executions at prices that may be erroneous.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because all Users' Multi-Class Spread Orders will be excluded from the fat finger check in the same manner. The Exchange notes that the Rules currently exclude other types of orders from the fat finger check. Also, as described above, all Users' Multi-Class Spread Orders will continue to be subject to other specific price controls or safeguards, such as real-time broker evaluation of floor-based pricing and other System-applied price checks, which provide protection against executions at prices that may be erroneous.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it relates solely to whether the System will accept certain

orders for execution on the Exchange [sic] The Exchange believes the proposed rule change would provide all market participants with additional execution opportunities in connection with their Multi-Class Spread Orders while still providing protection from anomalous or erroneous executions. To the extent that market participants find the proposed exclusion of the fat finger check to their complex strategies more favorable for execution of such orders, other exchanges may adopt functionality to similarly handle such complex strategies.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act²⁰ and Rule 19b-4(f)(6) thereunder.²¹ Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

²⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

²¹ 17 CFR 240.19b-4(f)(6).

A proposed rule change filed under Rule 19b-4(f)(6)²² normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay will allow the Exchange to mitigate as soon as practicable the limitations associated with the fat finger check by permitting the System to accept legitimately priced Multi-Class Spreads Orders that the System currently rejects inappropriately because it uses an SNBBO calculated with substitute NBBO information. The System's acceptance of these Multi-Class Spread Orders will allow additional execution opportunities for these orders. The Exchange notes that Multi-Class Spread Orders will continue to be subject to other price protections and safeguards that serve to protect against executions at prices that may be erroneous. The Commission believes that excluding Multi-Class Spread Orders from the fat finger check will benefit investors by providing execution opportunities for Multi-Class Spread Orders that are priced accurately based on current leg market prices but that the System currently rejects because, as described above, the System determines the SNBBO required by the price check using a substitute NBBO calculation, as provided in Cboe Rule 5.33(h)(3), as a result of system limitations that prevent the cross-class server from receiving BBO and ABBO information for the classes that could be components of a Multi-Class Spread Order. The proposal will allow accurately priced

²² 17 CFR 240.19b-4(f)(6).

²³ 17 CFR 240.19b-4(f)(6)(iii).

Multi-Class Spread Orders to be represented in open outcry rather than being rejected inappropriately when they are submitted to PAR. The Commission notes that the Exchange has received feedback from investors indicating that the current application of the fat finger check to Multi-Class Spread Orders is too limited. In addition, the Commission notes that Multi-Class Spread Orders, which trade only on the Exchange's floor, will continue to be subject to other safeguards, including real-time broker evaluation of floor-based pricing and other System-applied price checks that are designed to provide protection against executions at prices that may be erroneous. The Commission also notes that the Exchange will announce the implementation of the proposal to Trading Permit Holders in advance via Trade Desk Notice. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.²⁴

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²⁵ of the Act to determine whether the proposed rule change should be approved or disapproved.

²⁴ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁵ 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CBOE-2021-018 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2021-018. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m.

and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2021-018, and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

J. Matthew DeLesDernier,
Assistant Secretary.

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²⁶ 17 CFR 200.30-3(a)(12).